

REMARKS

This application has been carefully reviewed in light of the Final Office Action dated July 1, 2005. Claims 31-50 remain pending in this application. Claims 31 and 42 are the independent claims. Favorable reconsideration is respectfully requested.

On the merits, the Office Action rejected Claims 31-50 under 35 U.S.C. § 103(a) as being unpatentable over the technical specification for the Washington Metro Area Transit Authority (WMATA) SmarTrip system, dated 5/30/1997 (hereinafter "WMATA") in view of Stutz, "Your Vacation Plans for Sale?" Wired News, posted online July 9, 1998 (hereinafter "Stutz"). Applicants respectfully traverse the above rejections for at least the following reasons.

Claim 31, upon which claims 32-41 depend, and claim 42, upon which claims 43-50 depend, claim a method of subsidizing/managing a transportation system, that includes collecting a fare and granting access to the transportation system via a use of a transportation pass, the transportation pass being configured to communicate electronic information to an authorization device to collect the fare and grant the access based on collecting the fare, and selling some or all of the statistical reports collected based on the access to subsidize the transportation system and using the statistical reports to manage the transportation system.

WMATA teaches the SmarTrip system for granting access to a transportation system.

Stutz teaches the potential sale of travel information by airlines and travel agents.

Applicants respectfully traverse the rejection to Applicants' Claim 31. WMATA in view of Stutz does not recite, suggest, or teach the step of "selling some or all of the statistical reports to subsidize the transportation system" as recited in Applicants' Claim 31. The Examiner admits that "WMATA fails to teach or suggest bundling the data for sale and selling the data" and attempts to use Stutz to overcome the lack of this element in WMATA. See Final Office Action 7/01/2005, Page 2. But WMATA in fact teaches away from "selling some or all of the statistical

reports to subsidize the transportation system.” In WMATA the page entitled “ACTION ITEM: SmarTrip Policy Issues” (also has the page number 2) states that “[a]ny information would not be shared or sold outside WMATA.” Because WMATA teaches away from sharing or selling the statistical data, it would not be obvious to a person having ordinary skill in the art to combine WMATA and Stutz to decide to sell the statistical data as recited by Applicants’ Claim 31. Therefore Applicants respectfully traverse the § 103(a) rejection of Claim 31 over WMATA in view of Stutz, because the reference fails to recite or suggest every limitation of Applicants’ Claim 31.

Furthermore, Applicants respectfully traverse the rejection to Applicants’ Claim 42. WMATA in view of Stutz does not recite, suggest, or teach the step of “managing the transportation system based at least in part on the statistical reports” as recited in Applicants’ Claim 42. The Examiner states with respect to Claim 42 that “[r]egarding managing the transportation system, WMATA tracks traffic for the sake of managing its system, as evidenced by press releases it makes regarding (i.e. new records set), and by the fact that it provides extra trains at times of high loads.” See Final Office Action 7/01/2005, Page 3. The WMATA document provided by the Examiner does not include any press releases and more specifically does not include any information regarding the management of the transportation system using statistical reports as recited by Applicants’ Claim 42. Applicants do not know what press releases the Examiner is referring to because the Examiner has not provided any press releases as prior art references. Therefore, Examiner has not provided any references reciting or teaching managing the transportation system using the statistical reports. Applicants respectfully traverse the §103(a) rejection of Claim 42 over WMATA in view of Stutz, because the reference fails to recite or suggest every limitation of Applicants’ Claim 42.

Furthermore, Applicants wish to disclose a problem with using WMATA as a reference against Applicants' application. WMATA appears to include several different documents having different priority and does not appear to be a single document with a single priority date. The Examiner appears to be treating WMATA as one document with a priority date of May 30, 1997, because the first few pages of WMATA that are referenced by the Examiner are marked with a date of May 30, 1997. But further examination of the WMATA document reveals that it is a collection of different documents having priority dates different from May 30, 1997 or no date listed at all. For example, the section entitled "WMATA FARECARD/GO CARD FORMATS" has a date of October 1, 1998 and what appear to be several pages of Microsoft Power Point slides do not have any date listed. Furthermore, a section of WMATA entitled "What is TRIP?" is not dated but includes a reference to Secretary Ridge, which is a reference to the U.S. Department of Homeland Security's first secretary, Secretary Thomas J. Ridge. Secretary Ridge was not sworn in as secretary of the Department of Homeland Security until January 24, 2003. (See the enclosed White House press release regarding the swearing in date of Secretary Ridge, also found at <http://www.whitehouse.gov/news/releases/2003/01/print/20030124-5.html>). Therefore, this section of WMATA by referencing Secretary Ridge would have to have a priority date of January 24, 2003 or later which is after the application filing date of March 22, 2001, thereby making that section of WMATA not a valid prior art reference because it comes after the priority date of Applicants' invention. Therefore, Applicants request that the Examiner reexamine WMATA and withdraw any rejections to Applicants' Claims 31-42 based on WMATA documents without dates or having dates after the priority date of Applicants' invention.

Claims 32-41 depend from independent Claim 31 and Claims 43-50 depend from independent Claim 42 discussed above and are believed patentable for at least the same reasons.

Applicants further believe the §103 rejections of Claims 32-41 and 43-50 to be moot in light of the above remarks and request their withdrawal.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the currently pending claims are clearly patentably distinguishable over the cited and applied references. Accordingly, entry of this amendment, reconsideration of the rejections of the claims over the references cited, and allowance of this application is earnestly solicited.

Respectfully submitted,

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